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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,125	04/30/2001	Andreas N. Dorsel	10981420-1	5240

7590 07/01/2003

AGILENT TECHNOLOGIES, INC.  
Legal Department, 51U-PD  
Intellectual Property Administration  
P.O. Box 58043  
Santa Clara, CA 95052-8043

EXAMINER

TUNG, JOYCE

ART UNIT PAPER NUMBER

1637

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/846,125</b>	Applicant(s) <b>Dorsel et al.</b>
Examiner <b>Joyce Tung</b>	Art Unit <b>1637</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Mar 11, 2003

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 6-39 is/are pending in the application.

4a) Of the above, claim(s) 21-39 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 6-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. The amendment filed 3/11/2003 has been entered. Following the entry of the amendment, claims 6-39 are pending in which claims 21-39 were withdrawn as non-elected group.

Rejections and/or objected from the previous office action are hereby withdrawn. The following rejections are either newly applied or reiterated. They constitute the complete set presently being applied to the instant application.

#### *Election/Restriction*

2. Regarding restriction requirement, the response argues that Group II which is drawn to an apparatus and Group III which is drawn to a computer program product can be used to perform the methods of Group I. As discussed in the Office action mailed 10/3/2003, in the instant case, the products, Inventions II and III can be used for any biological or chemical assays, while the process, invention I can be performed manually. The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claims 21-39 drawn to an invention nonelected with traverse in Paper No.7. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

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## NEW GROUNDS OF REJECTIONS

### *Claim Rejections - 35 USC § 112*

4. Claims 8-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 6-7 are vague and indefinite because the language "the spatial order of the paths in the crosswise direction is not the same as their order in time". Since the spatial order includes their order in time, it is unclear how the spatial order of the paths in the crosswise direction is not the same as their order in time. Clarification is required.

b. Claims 8-20 are vague and indefinite because of the language "later illuminated path is closer to an earlier illuminated path than a path illuminated at a time between the later and earlier illuminated paths". It is unclear whether or not there is an additional step to move illumination on each path to get different illuminating time. Clarification is required.

### Summary

5. No claims are allowable.

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6. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is (703) 305-7112. The examiner can normally be reached on Monday-Friday from 8:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached at (703) 308-1119 on Monday-Friday from 10:00 AM-6:00 PM.

Any inquiries of a general nature or relating to the status of this application should be directed to the Chemical/Matrix receptionist whose telephone number is (703) 308-0196.

7. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Art Unit 1637 via the PTO Fax Center located in Crystal Mall 1 using (703) 305-3014 or 308-4242. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Joyce Tung

TT  
June 23, 2003

*Jeffrey Siew*  
JEFFREY SIEW  
PRIMARY EXAMINER  
6/30/03